

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In Re:

Joseph A. DiMino, Jr.

Debtor.

Bk No. 23-30672-5-WAK

Chapter 13

MOTION FOR RELIEF FROM AUTOMATIC STAY

M&T Bank ("M&T"), by and through in-house counsel Tyler J. O'Neill, Esq., for its Motion for Relief from the Automatic Stay, states as follows:

1. On September 20, 2023, the Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code (the "Filing Date").

2. The Debtor is indebted to M&T, which indebtedness is evidenced by a Retail Instalment Contract (the "Note") dated October 2, 2021, for the original principal sum of \$24,599.00 plus interest therein as provided for in the Note, a copy of which is attached hereto as **Exhibit A**.

3. The Note is secured by a first priority security interest in a 2015 Mercedes-Benz C-Class, bearing vehicle identification number 55SWF4KB8FU031553 (the "Collateral") and M&T duly perfected its security interest in the Collateral. Proof of perfection is attached hereto as **Exhibit B**.

4. The approximate clean retail value of the Collateral based on the NADA is estimated to be \$17,100.00. The NADA valuation is attached hereto as **Exhibit C**. The balance due to M&T on the Note is approximately \$17,088.92.

5. The Chapter 13 Plan filed with this court on September 20, 2023 expresses the Debtor's intent to maintain the current contractual installment payments on the Note.

6. The Debtor is currently past due on the Note with M&T in the amount of \$1,629.15, representing four post-petition, past due payments on the account (October 2023 - January 2024).

7. Based on the foregoing, sufficient cause exists to grant M&T relief from the automatic stay pursuant to 11 U.S.C. Section 362(d)(1).

WHEREFORE, M&T respectfully requests entry of an order granting it relief from the automatic stay to exercise its rights against the Collateral described herein and proceed with the repossession and sale of the Collateral, granting relief under Federal Rules of Bankruptcy Procedure 4001(a)(3) waiving the fourteen day stay period after entry of the order, and for such other and further relief as the Court deems just and proper.

DATED: Buffalo, New York
January 11, 2024

M&T BANK

By: /s/ Tyler J. O'Neill
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